

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

SHANE C. BUCZEK,

Petitioner

10-CV-383-S

v.

CONSTRUCTIVE STATUTORY TRUST
DEPOSITORY TRUST CORPORATION
DONALD F. DONAHUE
UNITED STATES MARSHALS
JOHN CLARK and BRYAN MATTEWS
UNITED STATES PROBATION
JOSEPH GIACOBBE
UNITED STATES OF AMERICA
ERIC H. HOLDER
BEHAVIORAL INTERVENTIONS
B.I. WILLIAM COOPER CFO,

Respondents.

NOTICE OF MOTION
TO ENLARGE SCHEDULING ORDER

Nature of Action: Habeas Corpus Petition.

Moving Party: Respondents, The Depository Trust Company and Donald F. Donahue (the “DTC Respondents”).

Directed to: Petitioner, Shane C. Buczek.

Date and Time: At a date and time to be determined by the Court.

Place: United States Courthouse, 68 Court Street, Buffalo, New York 14202.

Supporting Papers: Declaration of Margaret A. Dale in Support of Motion to Enlarge Scheduling Order, dated November 15, 2010.

Answering Papers: Due dates for answering papers will be determined by the Court pursuant to Local Rule 7.1.

Relief Requested: A thirty day extension of the time in which to file a motion to

dismiss pursuant to the Scheduling Order (the “Order”) on the grounds that the DTC Respondents are not both listed in the caption of the Order and it was not clear to the DTC Respondents to which respondent(s) the Order applies.

In the alternative, the DTC Respondents request that this Court deem the Motion to Dismiss and supporting Memorandum of Law (both attached as Exhibit A to the Declaration of Margaret A. Dale) as duly filed.

The DTC Respondents also seek a 30 day extension of the time in which to file an Answer to the Petition.

Grounds for Relief:

Federal Rule of Civil Procedure 7; Western District of New York Local Rule 7, 78(d) and this Court’s Civil Practice Guide section III(8).

Oral Argument:

Not Requested.

DATED: New York, New York, November 15, 2010

Respectfully submitted,

PROSKAUER ROSE LLP

/s/Margaret A. Dale

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Trust Company and Donald F. Donahue*

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

SHANE C. BUCZEK,

Petitioner

10-CV-383-WMS

v.

CONSTRUCTIVE STATUTORY TRUST
DEPOSITORY TRUST CORPORATION
DONALD F. DONAHUE
UNITED STATES MARSHALS
JOHN CLARK and BRYAN MATTEWS
UNITED STATES PROBATION
JOSEPH GIACOBBE
UNITED STATES OF AMERICA
ERIC H. HOLDER
BEHAVIORAL INTERVENTIONS
B.I. WILLIAM COOPER CFO,

Respondents.

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2010, I electronically filed the attached NOTICE OF MOTION TO ENLARGE SCHEDULING ORDER with the Clerk of the District Court using its CM/ECF system, and I mailed the foregoing, by the United States Postal Service, to the following non-CM/ECF participant:

Shane C. Buczek
Northeast Ohio Correctional Center,
2240 Hubbard Rd.
Youngstown, OH 44501

/s/Margaret A. Dale _____
MARGARET A. DALE